

# GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS 2023 ACCESSIBILITY MANUAL

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## I. Preface

The "2023 Qualified Allocation Plan (QAP)" requires that all projects funded under the Plan meet all federal, state, and local accessibility standards, as well as all DCA accessibility requirements. Because accessibility requirements may differ depending on the funding sources of a particular project, as well as the type of construction contemplated for a project, identifying the correct standards may require a determination of the most restrictive requirements (see Appendix A "Summary of Accessibility Laws and Standards" chart).

Failure to comply with applicable accessibility, adaptive design and construction requirements of these laws may result in loss of "tax credits" and/or the loss of "HUD program loan funds". The Applicant should consult an attorney and/or design professional to ensure that the rehabilitation and/or construction of the multi-family development complies with the accessible and adaptive design and construction requirements of each applicable law. These additional accessibility modifications will be incorporated in the Declaration of Land Use Restrictive Covenants (LURC) for Low-Income Housing Tax Credits for the project.

DCA's acceptance of the "project plans" should not be construed as conclusive that the project is in compliance with local, state, and federal accessibility laws; and DCA QAP Accessibility Requirements. Each Project Owner is required to contract with a third party "qualified accessibility consultant" to make that determination.

The following "Accessibility Manual" provides an overview of the primary accessibility laws and requirements that are applicable to projects funded under the Plan, as well as a summary of the QAP Threshold Criteria for accessibility design and construction standards for properties funded with HOME, NHTF, CDBG-DR, TCAP and / or Low Income Housing Tax Credits.

## II. DCA Accessibility Policy

DCA requires that all projects which receive funding under the 2023 Qualified Allocation Plan (QAP) be designed and constructed in a manner so that the "units, common areas, facilities and services" are readily accessible to and usable by disabled persons. All projects that receive allocations of funding under the Plan must comply with DCA QAP accessibility requirements and all applicable Federal and State accessibility laws including but not limited to the laws set forth in the 2023 Accessibility Manual.

- The Fair Housing Amendments Act of 1988 (FHA)
- Americans with Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Georgia Fair Housing Law  
Georgia Access Law

When two or more accessibility standards apply, the provider is required to follow and apply both standards so that a "*maximum accessibility*" is obtained. DCA does not distinguish between new construction and rehabilitation regarding accessibility requirements and therefore may include moving partitions to accommodate required clearances.

### **Exemptions/Waivers**

**Any "exemptions" to the applicable federal, state, local accessibility laws must be supported by a "legal opinion" that supports such exemptions and submitted to DCA through the Architectural Waiver form process.** In addition, DCA will review requests for exemptions from DCA's accessibility standards set forth in the Threshold Criteria Accessibility Standards section of the 2023 Qualified Allocation Plan (QAP). All requests must submit documentation from the project architect which outlines the basis for the "waiver" request, include a "*legal opinion*" supporting the request, as well as written approval from the accessibility consultant.

*NOTE: DCA's acceptance of such documentation should not be construed as conclusive that the project meets the legal requirements of the exception. Each Project Owner should consult their attorney and accessibility consultant to make that determination.*

In addition, DCA requires that the accessibility requirements of "Section 504" be incorporated into the design and construction of ALL new construction and/or rehabilitation projects funded under the 2023 Qualified Allocation Plan, regardless of whether or not the project will receive federal

financing assistance. This constitutes a higher standard of accessibility than what may be required under federal laws. This means projects financed only with tax exempt bonds which receive an allocation of 4% tax credits and projects financed only with 9% tax credits must incorporate at a minimum the requirements of the “UFAS” into the design and construction of the project.

DCA will NOT "waive" these additional Section 504 requirements for any new construction 4% tax credit and 9% tax credit only projects. Waivers for 4% tax credit and 9% tax credit only rehabilitation projects will be considered in accordance with the requirements set forth in Section 504. Section 504 provides that a recipient is not required to make a dwelling unit, common area, facility, or element accessible if doing so would impose "*undue financial and administrative burden*" on the operation of the project and if the rehabilitation is not substantial. Therefore, recipients are required to provide access for covered alterations up to the point of being infeasible or an undue financial and administration burden.

*NOTE: Any project that claims such an "exception" must submit documentation from the project architect which outlines the basis for the waiver request. A "legal opinion" supporting that the project falls within the requirements of the Section 504 exception must also be included as well as written approval from the accessibility consultant.*

### **Specific Modification Requirements**

DCA requires that all accessibility modifications be "*in place*" upon completion of new construction and/or completion of substantial rehabilitation, including kitchen and closet shelving, grab bars, and appliances. The ability of the applicant to "*adapt*" a unit to the required standard upon request is generally not sufficient to meet this requirement. However, removable or adaptable base cabinets will be permitted under kitchen and bathroom sinks and under kitchen work surfaces, provided that written instructions for the removal and adaptation of these cabinets is on file in the leasing office.

In addition, the following equipment may be stored onsite for installation at the tenant's request:

- under-sink pipe guards
- visual/hearing impaired equipment
- tub seats.

Refer to Uniform Federal Accessibility Standards (UFAS) 4.34 for additional design standards for dwelling units and consumer information that must be made available to the tenant in an accessible unit.

### III. DCA QAP Threshold Criteria Requirements

To be considered for an allocation of DCA resources, Applications must meet each of the Threshold requirements described below (see 2023 QAP Threshold Criteria Accessibility Standards section for addition information).

*NOTE: Preservation of "existing affordable housing" that cannot be modified to meet accessibility requirements that are not required by law, may request a DCA waiver. Any project that claims such an exception must submit documentation from the project architect which outlines the basis for the waiver request. A legal opinion supporting that the project falls within the requirements of the exception must also be included.*

#### **Accessibility Standards**

Regardless of whether a project anticipates using federal funds as a funding source, ALL proposed projects must include the following DCA requirements:

- **Mobility Disabled** - At least "5%" of the total units (but no less than one unit) must be equipped for the mobility disabled, including wheelchair restricted residents.
- **Roll-in showers** - Must be incorporated into "40%" of these units (but no less than one unit). Mobility units with "more than one bathroom" must have at least one bathroom with a roll-in shower.
- **Hearing and Sight-Impaired** - At least an additional "2%" of the total units (but no less than one unit) must be equipped for hearing and sight-impaired residents.

To provide hearing and sight-impaired accessibility, HUD recommends compliance with ICC/ANSI A117.1 Section 1006, including audible and visual notification on fire alarms and audio and visual notification system at the primary unit entrance.

- **5% and 2% requirement.** - The same unit cannot be used to satisfy the 5% and 2% requirement.
- **Qualified Accessibility Consultant** - Each project selected for allocation is required to retain a qualified accessibility consultant to monitor the project for accessibility compliance. The Consultant cannot be a member of the proposed Project Team nor have an "Identify of Interest" with any member of the proposed Project Team (see QAP definition for reference).

Developers must contact the qualified accessibility consultant directly and contract to provide the accessibility compliance services. All report must include a certification that the report was prepared by an individual who meets qualifications to be considered a "qualified" accessibility consultant as required by the QAP.

*Note: See Appendix F "Accessibility Consultant Qualifications Statement" for DCA minimum accessibility consultant qualification requirements.*

The DCA "qualified" consultant must perform the following:

- A pre-construction "plan and specification review" to determine that the proposed property will meet all required accessibility requirements. The Consultant report must be included with the initial construction documents submitted to DCA. At a minimum, the report will include the initial comments from the consultant, all documents related to resolution of identified accessibility issues and a "certification" from the consultant that the plans appear to meet all accessibility requirements.
- Provide at least two training sessions to the Architect, General Contractor, Job Superintendent, and a representative of every contractor group that will affect accessibility (i.e. sheetrock, grading, concrete, framing, electrical, plumbing, and cabinetry) regarding accessibility requirements. One training must be on site.

*NOTE: A written description of the training sessions and documentation of the events should be maintained.*

- An inspection of the construction site after "framing" is completed to determine that the property is following the approved plans and specifications as to accessibility. DCA must receive a copy of the report issued by the consultant as well as documentation that all issues, if any, have been resolved.
- A final inspection of the property after "completion" of construction to determine that the property has been constructed in accordance with all accessibility requirements. DCA must receive a copy of the report issued by the consultant as well as documentation that all issues, if any, have been resolved prior to submission of the project cost certification (see Appendix "Consultant Accessibility Certification" form).

*NOTE: The above outlines the DCA QAP minimum Accessibility Consultant work scope requirements. It is incumbent upon the Qualified Consultant to arrange enough visits with their client, the LIHTC Developer, to observe all areas of accessibility and to verify completion of recommended corrections. The project team should further discuss the scope of the specific project with the Accessibility Consultant to determine the actual number of site visits/reviews the project will require in order to issue the final clearance certification.*

### **Required Amenities**

Additional Requirements and Amenities for "Senior Projects" (Elderly and Housing for Older Persons) that are more stringent than the requirements for family projects:

- Elevators -Must be installed for access to all units above the ground floor.
- Furnished Gathering Areas - Buildings with multi-story construction must have interior conditioned and furnished gathering areas located throughout the complex including but not limited to areas near elevators.
- Accessible and Adaptable - 100% of the units must be accessible and adaptable, as defined by the Fair Housing Amendments Act of 1988.

### **Additional DCA Requirements**

Emergency Alert System: All “*Mobility Units and Hearing and Sight-Impaired Units*” must have a wireless or hard-wired emergency alert system installed that consists of a pull cord located in every bedroom and bathroom that either triggers an audible and visual notification outside of the dwelling unit or notifies the staff and 911 during work hours, and 911 after work hours when the emergency strings are pulled.

*NOTE: If buildings are required to have a building fire alarm system AND the owner decides NOT to designate the required “hearing and sight impaired units” and permanently install the required equipment into those units during construction, Then ALL units must be wired into the building fire alarm system by extending fire alarm wiring into all dwelling units.*

Refer to the DCA Architectural Standards for parking requirements and other additional requirements.

## **IV. State Accessibility Laws**

### **Georgia Fair Housing Law**

(O.C.G.A. §8-3-200 to §8-3-223)

The Georgia Fair Law contains substantially the same requirements as the "Federal Fair Housing Act Law". It requires that the design and construction of covered multifamily dwellings for "first occupancy" after March 13, 1991 be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.

### **Georgia Access Law**

(O.C.G.A. §30-3 et. seq.)

The Georgia Access Law contains substantially the same requirements as the "Federal American with Disabilities Act". It was enacted to further the policy of the State of Georgia to encourage and

enable persons with disabilities or elderly persons to participate fully in the social and economic life of Georgia and to encourage and promote their education and rehabilitation. It is the intent of the law to eliminate, insofar as possible, unnecessary physical barriers encountered by persons with disabilities or elderly persons whose ability to participate in the social and economic life of this state is needlessly restricted when such persons cannot readily use government buildings, public buildings, and other facilities used by the public.

### **Georgia Single Family Accessibility**

(O.C.G.A. §8-3-172) [GA Code § 8-3-172 \(2019\)](#)

Georgia Law requires single-family affordable housing projects "awarded state or federal funds" and constructed for individuals and families of "low and very low incomes" be constructed to be accessible. ***NOTE: DCA considers ALL single-family detached units which are part of a multifamily project funded under HUD programs to be covered under this statute.***

In addition, DCA "requires" that the accessibility requirements of "Section 504" be incorporated into the design and construction of ALL new construction and/or rehabilitation single family detached projects funded under the 2023 Qualified Allocation Plan, regardless of whether or not the project will receive federal financing assistance.

Specifically, at least "one entrance door", whether it is located at the front, side, or back of the building, has to be on an accessible route served by a ramp or no-step entrance and has to have at least a standard 36-inch door.

In addition, on the "first floor" of the building,

- each "interior door" must be at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet in area
- each "hallway" has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold
- each "bathroom" wall is reinforced for potential installation of grab bars
- each "electrical panel or breaker box, light switch, or thermostat" is not higher than 48 inches above the floor
- each "electrical plug or other receptacle" is at least 15 inches above the floor
- and the "main breaker box" is located inside the building on the first floor.

DCA will NOT waive these "additional Section 504 requirements" for any "new" construction project but waivers for "rehabilitation" projects will be considered in accordance with the requirements set forth in Section 504.



For projects that are not classified as "substantial alteration" (cost of the alterations is 75 percent or more of the replacement cost of the completed facility), Section 504 provides that a recipient is not required to make a dwelling unit, common area, facility, or element accessible if doing so would impose "undue financial and administrative burden" on the operation of the project and if the rehabilitation is not substantial. Therefore, recipients are required to provide access for covered alterations up to the point of being infeasible or an undue financial and administrative burden.

24 CFR 8.23 - Alterations of existing housing facilities:

*"Other" alterations to "dwelling units" in a multifamily housing project (including public housing) shall, to the "maximum extent feasible", be made to be "readily accessible" to and usable by individuals with handicaps. If alterations of "single elements or spaces" of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the "entire" dwelling unit shall be made accessible. Once "five percent" of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph.*

*Alterations to "common areas" or parts of "facilities" that affect accessibility of existing housing facilities shall, to the "maximum extent feasible", be made to be accessible to and usable by individuals with handicaps.*

*For purposes of this paragraph, the phrase to the "maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose "undue financial and administrative burdens" on the operation of the multifamily housing project.*

*NOTE: Any project that claims such an "exception" must submit documentation from the project architect which outlines the basis for the waiver request. A "legal opinion" supporting that the project falls within the requirements of the Section 504 exception must also be included.*

## **V. Fair Housing Act (FHA)**

### **A. Applicability**

The federal "Fair Housing Amendments Act of 1988" (Fair Housing Act) amended title VIII of the Civil Rights Act of 1968 (Fair Housing Act) to add prohibitions against discrimination in housing on the basis of disability and familial status. The Fair Housing Amendments Act (effective March 12, 1989) requires that "covered" public and private multifamily dwelling units designed and constructed for "first occupancy" after March 13, 1991, shall be designed and constructed in a manner that the public and common use portions of such dwellings are readily accessible to and

usable by disabled persons. First occupancy is defined as a building that has never before been used for any purpose. The Amendments Act's construction and design requirements apply on a building-by-building basis.

"Covered multifamily dwellings" or covered multifamily dwellings subject to the Fair Housing Amendments means buildings consisting of "four or more" dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

*NOTE: Any DCA "rehabilitation" project that claims such an "exception" from the Fair Housing Act itself, must submit documentation from the project architect which outlines the basis for the Fair Housing Act exception. A "legal opinion" supporting that the project falls within the requirements of the Fair Housing Act exception must also be included.*

The following guidance should not be construed as conclusive for determining which units of a proposed project "must meet" the Fair Housing Act accessibility standards. Each Project Owner should consult their attorney and accessibility consultant to make that determination. Section 100.205 of the United States Department of Housing and Urban Development (HUD) regulations at 24 CFR part 100 implements the Fair Housing Act's design and construction requirements and is a good resource when making that determination.

For an "overview" of how to determine which units and facilities of a proposed project "must meet" the Fair Housing Act accessibility standards the following guidelines can be utilized:

- Development has buildings containing "4 or more units" and was designed and constructed for "first occupancy" on or after March 13, 1991.

*NOTE: Acceptable evidence of "first occupancy" is made on a building-by-building basis. The Fair Housing Act regulations provide that "covered" multifamily dwellings shall be deemed to be designed and constructed for first occupancy "on or before" March 13, 1991 and therefore exempt from the Act's accessibility requirements if they are occupied by that date, or if the last "building permit" or renewal thereof for the covered multifamily dwellings is issued by a state, county or local government "on or before" June 15, 1990.*

*For buildings that did not obtain the final building permit on or before "June 15, 1990", proof of the date of first occupancy consists of:*

*(1) a Certificate of Occupancy, and*

(2) a showing that at least one dwelling unit in the building actually was occupied by March 13, 1991.

- Building contains an "elevator" so all units in building are "covered units".
- Building does not contain an elevator so only "ground-floor units" in building are "covered units"
- Development contains "covered units," so the "public and common use facilities" must be designed and constructed with features required by the Act.

These specific design and construction standards can also be found in the appropriate requirements of the American National Standards Institute (ANSI), Fair Housing Accessibility Guidelines (FHAG) and in HUD's Fair Housing Act Design Manual. If a project is built in compliance with HUD's Fair Housing Accessibility Guidelines (FHAG) requirements, a "safe harbor" for compliance purposes is created.

## **B. Seven Basic Design and Construction Requirements**

In order to be in compliance with the Fair Housing Act, the "Fair Housing Accessibility FIRST" initiative have identified the following seven basic *design and construction requirements* that must be met:

1. An accessible building entrance on an accessible route:

All covered multifamily dwellings must have at least one accessible building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.

- An accessible route means a continuous, unobstructed path connecting accessible elements and spaces within a building or site that can be negotiated by a person with a disability who uses a wheelchair, and that is also safe for and usable by people with other disabilities.
- An accessible entrance is a building entrance connected by an accessible route to public transit stops, accessible parking and passenger loading zones, or public streets and sidewalks.

2. Accessible public and common use areas:

Covered housing must have accessible and usable public and common-use areas. Public and common-use areas cover all parts of the housing outside individual units. They include -- for example -- building-wide fire alarms, parking lots, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas.

3. Usable doors (usable by a person in a wheelchair):

All doors that allow passage into and within all premises must be wide enough to allow

passage by persons using wheelchairs.

4. Accessible route into and through the dwelling unit:

There must be an accessible route into and through each covered unit.

5. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations:

Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations.

6. Reinforced walls in bathrooms for later installation of grab bar:

Reinforcements in bathroom walls must be installed, so that grab bars can be added when needed. The law does not require installation of grab bars in bathrooms.

7. Usable kitchens and bathrooms:

Kitchens and bathrooms must be usable - that is, designed and constructed so an individual in a wheelchair can maneuver in the space provided.

### **C. Site Impracticality**

The Fair Housing Act Accessibility Guidelines contain a narrow "Site Impracticality Exception" which provides that first floor units do not have to meet all of the Act's requirements if it is impractical to have an accessible entrance to the building because of the natural hilly terrain or other unusual characteristics of the site.

*"Covered multifamily dwellings shall be designed and constructed to have at least one building entrance on an accessible route unless it is "impractical" to do so because of the terrain or unusual characteristics of the site. {{10-30-92 p.9646}} The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility."*

*NOTE: Any project that claims such an exception must submit documentation from the "project architect" outlining the basis for the site exception. A "legal opinion" supporting that the project falls within the requirements of the Site Impracticality Exception must also be included.*

## **VI. Section 504 of the Rehabilitation Act of 1973**

### **A. Applicability:**

Section 504 of the "Rehabilitation Act of 1973" (Section 504) prohibits discrimination against persons with disabilities in the operation of programs "receiving federal financial assistance".

*NOTE: In addition, DCA "requires" that the accessibility requirements of Section 504 be incorporated into the design and construction of ALL new construction and/or rehabilitation projects*

*funded under the 2023 Qualified Allocation Plan regardless of whether or not the project will receive federal financing assistance. This means that ALL projects including those financed with tax exempt bonds which receive an allocation of “4% tax credits”, and “9% tax credits” only projects, must incorporate at a minimum the requirements of the UFAS into the design and construction of the project.*

Specifically, Section 504 governs the "design and construction" of housing to ensure that federal programs are operated to be accessible to persons with disabilities, and to ensure that a portion of housing developed with federal funds is accessible to those with "mobility, visual, and hearing impairments". These programs include, but are not limited to HOME, CDBG, and other programs under the jurisdiction of the HUD Office of Multifamily Housing Program.

HUD regulations implementing Section 504 contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities. Both "individual units" and the "common areas" of buildings must be accessible under Section 504. These specific design and construction standards can be found in the "Uniform Federal Accessibility Standards" (UFAS).

## **B. Specific 504 Requirements:**

**New Construction** – A minimum of "5%" or at least one unit (whichever is greater) of the total units in the project must be accessible to individuals with "mobility impairments". In addition to the 5% of units made accessible to individuals with mobility impairments, a minimum of "2%" or at least one unit (whichever is greater) of the total units in the project must be accessible to individuals with "sensory impairments" (hearing or vision).

*NOTE: Section 504 does not specify what constitutes compliant dwelling units for individuals with "hearing and visual impairments". HUD recommends following "ICC/ANSI A117.1-2009 Section 1006", including audible and visual notification on fire alarms and audio and visual notification system at the primary unit entrance.*

**Substantial Rehabilitation** – If alterations are undertaken to a project that has "15 or more units" and the cost of the alteration is "75% or more of the replacement cost" of the completed facility, then the accessibility requirements for the projects are the same as for newly constructed projects.

**Other Alterations-** When other alterations are undertaken, including but not limited to modernization and rehabilitation which does not meet the threshold of "Substantial Rehabilitation" under the Act, such alterations are required to be accessible to the "maximum extent feasible" up

to the point where at least "5%" of the units in a project are accessible. If alterations of "single elements or spaces" of a dwelling unit when considered together amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible.

In some cases, Section 504 requirements may be "stricter" than requirements under the "Fair Housing Act". For instance, in regard to townhome development, Section 504 would be applicable to a new construction project composed of all two-story townhomes. HUD Notices CPD 00-09 and PIH 99-52 (HA) states that, "a development consisting entirely of multistory townhouses constructed with federal financial assistance is not a covered multifamily dwelling for purposes of the design and construction requirements at 24 CFR §100.205 (FHAG) but would still have to meet the Section 504 5% + 2% accessibility requirements at 24 CFR §8.22 (Section 504). A townhouse development of five (5) or more single-story units would still have to comply with the Fair Housing Act design and construction requirements. Whether or not the rehab of a development of two-story townhouses would need to meet the 504 requirements would depend on the extent of the rehabilitation and whether the applicant could present documentation that the modifications would not be feasible.

DCA will NOT waive these "additional Section 504 requirements" for *any* "new" construction project but waivers for "rehabilitation" projects will be considered in accordance with the requirements set forth in Section 504.

For projects that are not classified as "Substantial Rehabilitation" (cost of the alterations is 75 percent or more of the replacement cost of the completed facility), Section 504 provides that a recipient is not required to make a dwelling unit, common area, facility, or element accessible if doing so would impose "undue financial and administrative burden" on the operation of the project and if the rehabilitation is not substantial. Therefore, recipients are required to provide access for covered alterations up to the point of being infeasible or an undue financial and administration burden.

24 CFR 8.23 - Alterations of existing housing facilities:

*"Other" alterations to "dwelling units" in a multifamily housing project (including public housing) shall, to the "maximum extent feasible", be made to be "readily accessible" to and usable by individuals with handicaps. If alterations of "single elements or spaces" of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the "entire" dwelling unit shall be made accessible. Once "five percent" of the dwelling units in a project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph.*

*Alterations to "common areas" or parts of "facilities" that affect accessibility of existing housing facilities*

*shall, to the "maximum extent feasible", be made to be accessible to and usable by individuals with handicaps. For purposes of this paragraph, the phrase to the "maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose "undue financial and administrative burdens" on the operation of the multifamily housing project.*

*NOTE: Any project that claims such an "exception" must submit documentation from the project architect which outlines the basis for the waiver request. A "legal opinion" supporting that the project falls within the requirements of the Section 504 exception must also be included.*

### **C. Increasing "Program" Accessibility**

Section 504 regulations also require that a recipient of federal funds ensure that its project, "when viewed in its entirety", is accessible to persons with disabilities. In order to meet this obligation, Section 504 requires that the Project Owner must:

- To the maximum extent feasible, "distribute" accessible units through the projects and sites and make them available in a sufficient range of sizes and amenities so as to not to limit choice.
- Adopt suitable means to assure that "information" regarding the availability of accessible units reaches eligible individuals with disabilities. Reasonable nondiscriminatory steps to maximize use of such units by eligible individuals must also be taken.
- When an accessible unit becomes "vacant", before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.
- When an applicant or tenant requires an accessible feature or policy modification to "accommodate" a disability, a federally assisted project must provide such feature or policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden.
- Project Owners are required to ensure that information about their project is "disseminated" in a manner that is accessible to persons with disabilities.
- Include a "lease provision" that requires a non-disabled family occupying an accessible unit to move if a family with a disability needing that size unit applies and there is an appropriately sized non-accessible unit available for the relocating family.

## **VII. The American with Disabilities Act**

A summary of the 2010 ADA is below:

**A. Applicability.** The American with Disabilities Act guarantees equal opportunity for individuals with disabilities in "employment, public accommodations, transportation, state and local government services and telecommunication". It is divided into five titles. Two of which are primarily applicable to multifamily housing agencies.

- Title II. Public services, which include state and local government instrumentalities, cannot deny people with disabilities from participating in "programs or activities" which are available to people without disabilities.
- Title III. Prohibits disability-based discrimination and requires privately owned "places of public accommodation" be designed, constructed and altered in compliance with certain accessibility standards.

*NOTE: Under the "2023 Qualified Allocation Plan", the ADA is applicable to all new construction projects that are selected for funding. In "rehabilitation" projects, existing facilities must comply to the "maximum extent feasible". Please note that generally the requirements of the ADA are not as restrictive as the requirements under "Section 504". Projects financed through an allocation of "4% or 9% tax credits" need to closely review the requirements of the ADA Standards for Accessible Design or UFAS as it pertains to these areas of "public accommodation".*

**B. Basic ADA Requirements**

For All DCA "new construction" projects the following requirements are applicable:

- The "common areas" that are for public use at "covered multifamily dwellings" under the Act must meet the ADAAG. For example, a "rental office" in a multifamily residential development or a convenience store located in that development would be covered under Title III of the ADA.
- Public accommodations do not include portions of privately owned rental housing used exclusively as residences, but does include areas within such facilities that are available to the general public such as "rental offices, parking areas and community rooms for rent by non-residents".
- Specifically, "rental offices" that serve the public must comply with the access requirements of the ADA, Title III (that is, if they are constructed for "first occupancy" after January 26, 1993), and they must be constructed to comply with ADAAG. If constructed before that date, "architectural barriers" must be removed if doing so is "readily achievable."
- Social service programs operated by a housing provider that are "available to non-



residents" would be considered public accommodations and must be accessible under Title III.

*Note: Design, construction, or alteration of facilities in conformance with ADAAG shall be "deemed to comply" with requirements of the ADA.*

For all "rehabilitation" projects, the following requirements are applicable to those areas covered by the ADA:

- All "architectural barriers" in existing facilities must be removed where such removal is readily achievable that is easily accomplished and able to be carried out. This would include adding grab bars, ramping a few steps, and lowering telephones. If barrier removal is "not readily achievable" then services must be made available through alternative methods.

*NOTE: In "rehabilitation" projects, existing facilities must comply to the "maximum extent feasible". Any project that claims a required modification is not 'readily achievable' must submit documentation from the project architect which outlines the basis for the exception. A "legal opinion" supporting that the project falls within the requirements of the modification exception must also be included.*

2010 ADA Standards for Accessible Design:

28 CFR part 36, subpart D – New Construction and Alterations - §36.402 Alterations:

**(a) General.** (1) Any alteration to a place of public accommodation or a commercial facility, after January 26, 1992, shall be made so as to ensure that, to the "maximum extent feasible", the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

**(c) To the maximum extent feasible.** The phrase "to the maximum extent feasible," as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

## VIII. Layered Properties

In many projects, multiple sources of funding may mean the projects must meet both the "Fair

Housing" and "Section 504" new construction requirements. Where two or more accessibility standards apply, the Project Owner is required to follow and apply both standards so that maximum accessibility is obtained.

HUD has provided the following "examples" illustrating how these requirements would apply:

- A project building with an "elevator" constructed with HUD program funding would be required to have "5%" of its dwelling units meet the Section 504 accessibility requirements. The remaining "95%" of its units would be required to comply with the Fair Housing design and construction requirements.
- A newly constructed 100-unit two story garden apartment development with "no elevator" construction with HUD program assistance with half (50) of its dwelling units on the ground floor and half (50) on the second floor, would be required to have "5" of its ground floor dwelling units built to comply with Section 504 accessibility requirements and the remaining "45" ground floor dwellings built to comply with the Fair Housing Act design and construction standards.
- A development consisting entirely of "multistory rental townhouses" constructed with federal financial assistance is not a covered multifamily dwelling for purposes of the design and construction requirements of the Fair Housing Act. However, it would still have to meet the Section 504 "5%" accessibility requirements.

## **IX. Visitability**

HUD "recommends" that all design, construction, and alterations for multifamily units, incorporate, whenever practical, the concept of visitability in addition to the requirements under Section 504 and the Fair Housing Act. Housing that is visitable has a very "basic level" of accessibility. Visitability is a "design concept", which, for "very little or no additional cost", enables persons with disabilities to visit relatives, friends, and neighbors in their homes within a community.

*NOTE: DCA has also adopted the concept of visitability as a recommended practice for ALL projects that receive funding under the 2023 Qualified Allocation Plan.*

Visitability design incorporates the following basic visitability design requirements in all construction or alterations, in addition to the applicable requirements of Section 504 and the Fair Housing Act, whenever "practical and possible for as many units" as possible within a development:

- Provide "32 inch clear" openings in all bathrooms and interior doorways.
- Provide at least one "accessible means of egress/egress" for each unit.

Visitability also expands the availability of housing options for individuals who may not require full accessibility. It will assist project owners in making reasonable accommodations and reduce, in some cases, the need for structural modifications or transfers when individuals become disabled in place.

*NOTE: Any project that claims such an exception from the above "basic visitability design requirements" must submit documentation from the project architect which outlines the basis for the visitability design concept exception. A "legal opinion" supporting that the project falls within the requirements of the visitability design concept exception must also be included.*

## **X. Increasing Accessibility**

Projects funded with Low Income Housing Tax Credits are encouraged to "go beyond" federal, state, and local regulations and provide further low-cost accommodations for mobility, sight, and hearing-impaired tenants. Consider incorporating the following:

**Entrance doors:** Install two "peep holes"- one for use by ambulatory people and one for use by wheelchair users. For the lowered one, install a wide lens peep hole. It has a much wider range of view which increases safety for user.

**Kitchen electrical outlets and switches:** The requirements for "switches and outlets" above counter often do not actually meet the needs of people in wheelchairs (reach range), even when the counter width does not exceed the maximum 28". Consider the following to make these switches more accessible:

- Place outlets toward the front on a side wall at the end of counter where it can be more readily reached.
- Place two switches for garbage disposal and stove hood; Under the sink in the area which has knee space and on wall (as low as possible) where it can be accessed from area in front of sink.

**Bathrooms:** Consider installing a vertical grab bar (minimum 18") in the shower per "ICC/ANSI A117.1-2009" where it can be held onto while entering the tub or shower.

**Parking spaces:** Parking should be laid out so that the access aisle is NOT an end space. When there is a parking space on both sides of the access aisle, it provides an opportunity for two vehicles to utilize the access aisle.

## XI. Play Areas

Specific guidance on what constitutes an accessible playground is not provided in Section 504 or Fair Housing regulations. The "Architectural Barriers Act" (ABA) has published the "ABA Accessibility Standards" that are not specifically applicable to tax credit projects (residential facilities under the purview of HUD, which references UFAS). Section 1008 Play Areas of the ABA Accessibility Standards are the basis for what DCA considers best practice in playground accessibility. A summary of the "DCA required" design features is as follows:

### A. Ground Structure/Equipment

At least "one of each type" of ground structure/equipment should be accessible. The accessibility of a piece of equipment includes the following:

1. Accessible Route. An accessible route shall extend from the play components to the rest of the accessible route on the property.
  - i. CLEAR WIDTH: The accessible routes connecting shall provide a clear width of 36 inches.
  - ii. TURNING SPACE: At least one turning space shall be provided on the same level as play components. Where swings are provided, the turning space shall be located immediately adjacent to the swing.
2. Clear Floor or Ground Space. Clear floor or ground space shall be provided at play components. Clear floor or ground spaces, turning spaces, and accessible routes are permitted to overlap within play areas. A specific location has not been designated for the clear floor or ground spaces or turning spaces, except swings, because each play component may require that the spaces be placed in a unique location. Where play components include a seat or entry point, designs that provide for an unobstructed transfer from a wheelchair or other mobility device are recommended. This will enhance the ability of children with disabilities to independently use the play component.
  - i. When designing play components with "manipulative or interactive" features, consider appropriate reach ranges for children seated in wheelchairs.
  - ii. Children's Reach Ranges **Forward** or Side Reach

	Ages 3 - 4	Ages 5 - 8	Ages 9 - 12
High (maximum)	36"	40"	44"

Low (minimum)	20"	18"	16"
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3. Ground Surfaces. Ground surfaces shall comply with:
  - i. ASTM F 1951 Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment. Ground surfaces shall be inspected and maintained regularly and frequently to ensure continued compliance with ASTM F 1951.
  - ii. ASTM F 1292 Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment.
  
2. Play Tables. Where play tables are provided, knee clearance 24 inches high minimum, 17 inches deep minimum, and 30 inches wide minimum shall be provided. The tops of rims, curbs, or other obstructions shall be 31 inches high maximum. EXCEPTION: Play tables designed and constructed primarily for children 5 years and younger shall not be required to provide knee clearance where the clear floor or ground space required by is arranged for a parallel approach.
  
3. Entry Points and Seats. Where play components require transfer to entry points or seats, the entry points or seats shall be 11 inches minimum and 24 inches maximum from the clear floor or ground space. EXCEPTION: Entry points of slides shall not be required to comply with above.
  
4. Transfer Supports. Where play components require transfer to entry points or seats, at least one means of support for transferring shall be provided. Examples of supports include a rope loop, a loop type handle, a slot in the edge of a flat horizontal or vertical member, poles or bars, or D rings on the corner posts.

**B. Elevated Structure**

At least one of each type of "elevated structure" should be accessible and ramps and transfer systems help provide access to elevated play structures. Transfer systems are a means of accessing composite play structures. Transfer systems generally include a "transfer platform" and a series of "transfer steps". Children who use wheelchairs or other mobility devices transfer from their wheelchair or mobility devices onto the transfer platform and lift themselves up or down the transfer steps and scoot along the decks or platforms to access elevated play components. Some children may be unable or may choose not to use transfer systems. Where transfer systems are provided, consideration should be given to the distance between the

transfer system and the elevated play components. Moving between a transfer platform and a series of transfer steps requires extensive exertion for some children. Designers should minimize the distance between the points where a child transfers from a wheelchair or mobility device and where the elevated play components are located.

The transfer system to a piece of equipment includes the following:

1. Transfer Platforms. Transfer platforms should be provided where transfer is intended from wheelchairs or other mobility aids.
  - i. Transfer platforms should have level surfaces 14 inches deep minimum and 24 inches wide minimum.
  - ii. Height of transfer platforms should be 11 inches minimum and 18 inches maximum measured to the top of the surface from the ground or floor surface.
  - iii. A transfer space complying with 305.2 and 305.3 should be provided adjacent to the transfer platform. The 48-inch-long minimum dimension of the transfer space should be centered on and parallel to the 24 inch long minimum side of the transfer platform. The side of the transfer platform serving the transfer space should be unobstructed.
  - iv. At least one means of support for transferring should be provided. Examples of supports include a rope loop, a loop type handle, a slot in the edge of a flat horizontal or vertical member, poles or bars, or D rings on the corner posts.
2. Transfer Steps. Transfer steps should be provided where movement is intended from transfer platforms to levels with elevated play components required to be on accessible routes.
  - i. Transfer steps should have level surfaces 14 inches deep minimum and 24 inches wide minimum.
  - ii. Each transfer step shall be 8 inches high maximum.
  - iii. At least one means of support for transferring shall be provided. Examples of supports include a rope loop, a loop type handle, a slot in the edge of a flat horizontal or vertical member, poles or bars, or D rings on the corner posts.

# Appendices

- A - Summary of Accessibility Laws and Standards (chart)
- B - Fair Housing Act (FHA) Accessibility Checklist
- C - Common Errors or Omissions
- D - Additional Resources
- E - Accessibility Consultant Qualifications Package Checklist
- F - Accessibility Consultant Qualifications Statement
- G - Certification of Minimum DCA Scope and Reporting Standards
- H - Consultant Accessibility Certification
- I - Accessibility Inspection Checklist
- J - Owner Accessibility Certification
- K - Accessibility Agreement

# 2023 Accessibility Manual - Appendix A

## Summary of Accessibility Laws and Standards

The "Summary of Accessibility Laws and Standards" chart can be used to assist with determining the appropriate design standards that should be incorporated into a project. Project Architects, Engineers, Contractors and Accessibility Consultants should be familiar with the requirements of each standard to ensure that the appropriate requirements are met.

***NOTE: See separate Excel file for this referenced appendix.***



## 2023 Accessibility Manual - Appendix B

# **Fair Housing Act (FHA) Accessibility Checklist**

## 2023 Fair Housing Act (FHA) Accessibility Checklist

The following FHA Accessibility Checklist represents some, but not all of the accessible and adaptive design and construction requirements of the Fair Housing Act. The Internal Revenue Service (IRS), Department of Justice (DOJ) and HUD have jointly prepared it. Adoption of these items into the design and construction of a project will not guarantee that the project complies with all applicable FHA accessibility requirements. The project architect must utilize all requirements set forth in the Fair Housing Act, regulations and FHAG to ensure that the project is accessible in accordance with the law.

### 1. ACCESSIBLE BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all public and common use facilities.
- The accessible route also connects to parking lots and to at least one public street, public sidewalk, and to a public transportation stop, when provided.
- All slopes on the accessible route are no steeper than 8.33%.
- All slopes on the accessible route between 5% and 8.33% have handrails.
- Covered units have at least one entrance on an accessible route.
- There are sufficient numbers of curb cut ramps for a person using a wheelchair to reach every building in the development.
- Ramp slope and cross slope specifications.

### 2. ACCESSIBLE COMMON AND PUBLIC USE AREA

- At least 2 percent of all parking spaces serving covered units are designated as accessible handicapped parking spaces.
- At least one parking space at each common and public use amenity is designated as handicapped accessible parking.
- All handicapped accessible parking spaces have adequate signage.
- All handicapped accessible parking spaces are at least 96" wide with a 60" wide access aisle that can be shared between two spaces.
- The accessible aisle is adjacent to the accessible route.
- The rental or sales office is readily accessible and usable by persons with disabilities as required by both the Fair Housing Act and the Americans with Disabilities Act.
- A sufficient number of mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains, public telephones, and other common and public use amenities offered by the development that are readily accessible and usable by persons with disabilities.

### 3. USABLE DOORS

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width.
- All doors leading into common use facilities have lever door handles or other operating hardware that does not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than ½".
- All primary entrance doors to covered units have lever door handles or other operating hardware that does not require grasping and twisting.
- Thresholds at exterior primary entrance doors to covered units are beveled and no greater than ¾".

#### 4. ACCESSIBLE ROUTE INTO AND THROUGH THE COVERED UNIT

- All routes through all rooms in the covered units are no less than 36" wide.

#### 5. ACCESSIBLE ENVIRONMENTAL CONTROLS

- All light switches, electrical outlets, thermostats, and other environmental controls are no less than 15" and no greater than 48" from the floor.

#### 6. REINFORCED BATHROOM WALLS FOR GRAB BARS

- Reinforcements are built into the bathroom walls surrounding toilets, showers, and bathtubs for the later installation of grab bars.

#### 7. USABLE KITCHEN AND BATHROOMS

##### USABLE KITCHENS

- 30 x 48" clear floor space centered at each fixture and appliance
- 40" of clear floor space between opposing elements (i.e. cabinets, appliances, etc.)
- U-shaped kitchens with sink or cooktop at end have 60" diameter turning space or have sink or cooktop base with removable cabinets
- Appliances and controls shall conform to the required accessibility design standards.

##### USABLE BATHROOMS

###### Type A Bathroom

- 30 x 48" clear floor space outside the swing of the door
- 30 x 48" clear floor space at lavatory (if centered for parallel approach cabinet may be fixed)
- Toilet next to the tub allowing a perpendicular approach
- Centerline of toilet is 18" from bathtub and 15" from lavatory
- Toilets shall comply with the required design standards for height and location.

###### Type B Bathroom

- 30 x 48" of clear floor space outside swing of door
- 30 x 48" of clear floor space centered in front of sink
- 30 x 48" of clear floor space adjacent to the bathtub
- If at least one Type B bathroom is included the other bathroom(s) is exempt from only the maneuvering space requirements
- Toilets shall comply with the required design standards for height and location.

## 2023 Accessibility Manual - Appendix C

### **Common Errors or Omissions**

## Common Errors or Omissions

The following list reflects items commonly found out of compliance at DCA's final construction inspection. Since this list is not intended to be comprehensive of all accessibility regulations, please read the Accessibility Manual thoroughly.

- Mailboxes are not coordinated with handicap-designed units such that all "mailboxes" for the mobility impaired are within accessible reach ranges.
- A Clear floor space of 30"x48" is not provided at "mailbox" for forward or parallel approach.
- Community "gardens" do not provide an accessible route into the garden space nor provide any planting beds within accessible reach ranges.
- "Accessible routes" (concrete sidewalks, ramps, and curb cuts) exceed maximum slopes and distances.
- Trash dumpsters not on an accessible route or do not provide a disposal opening that meets requirements for ease of operation to open are is within accessible reach ranges.
- Opposing "kitchen elements" (cabinets and refrigerators) do not have adequate clearance.
- Showers and tubs are not equipped with the proper number or location of "grab bars".
- Showers and tubs are missing "shower seat, handheld shower, offset controls".
- Location of "shower controls" in roll-in shower when a seat is provided on a side wall.
- Clear space is not centered on "appliance" (range).
- "Closet rods" not placed within accessible reach range (clothes and laundry closets).
- Toilet "flush handle" not placed on the outside (not in the corner against the wall) for accessible reach.
- Back "grab bar" at toilet is not the correct length.
- Highest control at "thermostat" is too high.
- Top of bottom "shelf" at the cabinet over work counter is too high.
- An accessible surface for "door maneuvering" clearance at exterior door is not provided.
- Width of "linen and pantry" closet doors is less than the minimum width.
- Protection panels provided at bathroom and kitchen sinks do not provide the correct profile for "knee/toe clearance".
- Accessible route not extended beyond the property to the "public street or sidewalk".
- An accessible route to a bench or bench area at playground" is not provided.
- Depth of "shallow" closet is greater than what is allowed for a door that does not allow user passage.

- Door maneuvering clearances at door not provided per "latch approach or hinge approach".
- "Threshold" height at primary entrance door exceeds  $\frac{1}{2}$ "
- Wall outlets lower than minimum allowed to "lowest receptacle".
- Wall outlets over "counter" with top receptacle higher than maximum allowed.
- Centerline of "bathroom sink" does not allow sink to be centered on clear floor space.
- Doors to back "porches and patios" are not accessible.

## 2023 Accessibility Manual - Appendix D

### **Additional Resources**

## Additional Resources

The below referenced links may be used to access different accessibility standards and information:

*NOTE: DCA does not endorse any of the above sites but provides them as a resource only. Please consult with your Project Architects, Engineers, Contractors and Attorneys to determine how the requirements of each standard will be met.*

### FAIR HOUSING ACT (FHA)

Fair Housing Accessibility First:

<http://www.FairHousingFIRST.org>

*Fair Housing Accessibility FIRST is an initiative sponsored by the U.S. Department of Housing and Urban Development (HUD) designed to promote compliance with the Fair Housing Act design and construction requirements.*

Fair Housing Accessibility Guidelines (FHAG):

<http://www.hud.gov/offices/fheo/disabilities/fhefhag.cfm>

*This document presents guidelines adopted by the Department of Housing and Urban Development to provide "builders and developers" with technical guidance on how to comply with the specific accessibility requirements of the Fair Housing Amendments Act of 1988.*

Fair Housing Accessibility Guidelines (HUD): Questions and Answers about the Guidelines:

<http://www.hud.gov/offices/fheo/disabilities/fhefhasp.cfm>

*This document reproduces the questions that have been most frequently asked by members of the public, and the Department's answers to these questions.*

*NOTE: This notice of questions and answers about the Fair Housing Accessibility Guidelines will be codified in the 1994 edition of the Code of Federal Regulations as Appendix IV to the Fair Housing regulations (24 CFR Ch.I., Subch.A, App. IV).*

2013 HUD and DOJ Joint Statement – "Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act"

<https://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>



*This Joint Statement provides guidance regarding the persons, entities, and types of housing and related facilities that are subject to the accessible design and construction requirements of the Act (hereinafter, "design and construction requirements"). See 42 U.S.C. § 3604(f)(3).*

Fair Housing Act Design Manual (designed and developed by Barrier Free Environments, Inc. For HUD.):

<http://www.huduser.org/publications/destech/fairhousing.html>

*First published in 1996, the Fair Housing Act Design Manual: A Manual to Assist "Designers and Builders" in Meeting the Accessibility Requirements of The Fair Housing Act provides clear and helpful guidance about ways to design and construct housing which complies with the Fair Housing Act.*

## SECTION 504

HUD's Section 504 One-Stop Web Site

<http://www.hud.gov/offices/fheo/disabilities/sect504.cfm>

*To provide recipients of HUD financial assistance with information regarding their obligations under Section 504, an overview of relevant regulatory provisions, and information about steps they may take to ensure that they are in compliance.*

Section 504 notices, regulations and supportive documents (HUD)

[https://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/sect504docs](https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504docs)

*This Section 504 Web site is part of HUD's effort to help ensure that its programs are accessible to everyone.*

Uniform Federal Accessibility Standards (UFAS):

<https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>

*This document presents uniform standards for the design, construction and alteration of buildings so that physically handicapped persons will have ready access to and use of them in accordance with the "Architectural Barriers Act", 42 U.S.C. 4151-4157.*

## UFAS Accessibility Checklist (HUD)

<https://www.hud.gov/offices/fheo/library/UFASAccessibilityChecklistforPHAs-5-7-08.pdf>

*This checklist is intended for accessibility reviews of properties owned, operated and/or managed by recipients of Federal financial assistance. See "Section 504" of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794; 24 C.F.R. Part 8.*

## AMERICANS WITH DISABILITIES ACT (ADA)

### ADA.GOV

<https://www.ada.gov/>

*Information and Technical Assistance on the Americans with Disabilities Act*

2010 ADA Standards for Accessible Design (includes Title II and ADAAG):

<http://www.ada.gov/regs2010/2010ADAStandards/2010ADAstandards.htm>

*The 2010 Standards set minimum requirements – both scoping and technical -- for newly designed and constructed or altered State and local government facilities, public accommodations, and commercial facilities to be readily accessible to and usable by individuals with disabilities.*

Accessibility Guidelines for "Play Areas" (U.S. Access Board)

<https://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/play-areas>

*This guide is designed to assist in using the play area guidelines which are a supplement to the "Americans with Disabilities Act" Accessibility Guidelines (ADAAG)*

Designing for Inclusive Play: Applying the Principles of Universal Design to the Playground

<http://www.ncaonline.org/resources/articles/playground-universaldesign.shtml>

*When we design for these purposes and apply the Principles of Universal Design, we design for inclusive play where every child, regardless of ability or disability, is welcomed and benefits physically, developmentally, emotionally and socially from the environment.*

## STATE OF GEORGIA

Official Code of Georgia Unannotated:

<http://www.lexis-nexis.com/hottopics/gacode/default.asp>

*The statutory portion of the codification of Georgia laws enacted by the General Assembly of Georgia. When so published shall be known and may be cited as the "Official Code of Georgia Annotated."*

State Fire Marshal's Office

<https://www.oci.ga.gov/FireMarshal/Home.aspx>

*The responsibilities of the Fire Marshal's Office fall into five main categories: building inspection, manufactured housing inspection, engineering, hazardous materials inspections, and licensing.*

Fire Marshal Rules and Regulations

<https://www.oci.ga.gov/Firemarshal/Rules%20and%20Regulations.aspx>

*Fire Marshal historical rules and regulations, including current regulations.*

## **Appendix “E”**

# **Accessibility Consultant Qualifications Package Checklist**

## 2023 DCA Accessibility Consultant Qualifications Package Checklist

The Qualification Package must be and contain the following information in the order shown and numbered as follows (please scan each document separately):

- Cover Letter: A cover letter which provides the company name, mailing address; contact name, telephone number, and email address of the individual to whom DCA may communicate regarding the Qualifications Package.
- References: Three current customer references for accessibility reviews must be included. Of special interest to DCA are any customer references from multi-family housing developers, state, or local housing agencies and/or financial institutions. Please provide the customer reference contact person's name and telephone number
- Resumes: Copies of resumes for all proposed individuals who will be working directly on the inspections if the Consultant is qualified (Resumes should include any and all trainings and certifications related to accessibility)
- Report Samples: At least two samples of accessibility reports (one for new construction, one for substantial rehabilitation) that your firm recently completed for a multi-family housing development. (Consultants currently qualified by DCA to perform accessibility inspections and in good standing need not submit sample reports).
- Project List: A listing of multi-family rental housing projects on which Consultant has performed accessibility reviews. This listing should indicate the project name, number of units, proposed tenancy (senior, family or 'other'), source of financing and whether the project was assisted with government funding.
- Qualifications Statement: Executed Copy of the DCA "Accessibility Consultant Qualifications Statement".
- Scope and Reporting Standards: Executed Copy of the DCA" Certification of Minimum Scope and Reporting Standards".
- 

**Certification Statement:** Certifies that all items listed above are included in the Qualifications Package and are deemed to comply with the stated requirements listed above and in the DCA "Accessibility Consultant Qualifications Statement":

Company Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **Appendix “F”**

# **Accessibility Consultant Qualifications Statement**

## 2023 DCA Accessibility Consultant Qualifications Statement

A "Qualified Accessibility Consultant" is any individual who possess the required knowledge to inspect multifamily properties for compliance with all federal, state and agency accessibility requirements and meets the following experience requirements and qualifications:

- The Consultant will perform tasks necessary to review LIHTC and/or other DCA federally funded properties for compliance with federal, state, and agency accessibility laws and requirements, including, but not limited to:
  - Title II and III of the Americans with Disabilities Act and all applicable compliance standards
  - Section 504 of the Rehabilitation Act of 1973 and all applicable compliance standards
  - The Fair Housing Act and all applicable compliance standards
  - The Georgia Access Law (O.C.G.A. §30-3 et. seq.) and all applicable compliance standards
  - Georgia Fair Housing Law (O.C.G.A. §8-3-200 et. seq.) and all applicable compliance standards
  - The requirements of the DCA Qualified Allocation Plan ("QAP") applicable to the Project and the DCA Accessibility Manual
  - Any other accessibility laws and regulations applicable to the project.
  
- Consultant is not to be a member of the Project Team (see QAP definition) nor have an Identity of Interest with any member of the Project Team.
- Consultant has the capacity to render a high-quality report in accordance with the instructions and requirements set forth in the DCA "Certification of Minimum Scope and Reporting Standards".
- Consultant has no less than five (5) years of experience performing accessibility compliance assessments for affordable rental housing projects.
- Consultant is not presently debarred, suspended, proposed for debarment or suspension, declared ineligible or excluded from participation by any state or federal department, agency, or program.
- Consultant agrees to comply with all applicable laws, including, but not, limited to federal, state and local laws, codes, regulations, ordinances, rules and orders, including all laws concerning fair housing and equal opportunity that protect individuals and groups against discrimination on the basis of race, color, national origin, religion, disability, familial status, or sex.
- Consultant agrees to comply with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603, the Georgia Security and Immigration Compliance Act, the Illegal Immigration Reform and Enforcement Act of 2011 (O.C.G.A. §13-10- 90 et. seq.), and any other applicable state or federal immigration laws. Consultant must be registered with and using E-Verify.
- Consultant agrees to comply with Drug Free Workplace requirements:
  - If Consultant is an individual, he or she must not engage in the unlawful manufacture, sale distribution, dispensation, possession or use of controlled

substance or marijuana during the performance of accessibility compliance services.

- If Consultant is an entity other than an individual, the entity certifies that a drug-free workplace will be provided for the Consultant's employees during the performance of accessibility compliance services.
- Consultant shall carry the minimum insurance coverage as required by current industry standards. The developer who contracts with Consultant will bear the responsibility of verifying the insurance coverage and determining its adequacy.
- Consultant certifies that the information provided as outlined in the DCA "Accessibility Consultant Qualifications Package Checklist" is accurate.

**Certification Statement:** Consultant agrees to comply with all requirements as stated above.

Company Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Consultant Name: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Note: Executed copy to be included with each report.*



## **Appendix “G”**

### **Certification of Minimum Scope and Reporting Standards**

## 2023 DCA Certification of Minimum Scope and Reporting Standards

The Accessibility Consultant will perform tasks necessary to review and report LIHTC and/or other DCA federally funded properties for compliance with federal, state, and agency accessibility laws and requirements, including, but not limited to:

- Title II and III of the Americans with Disabilities Act and all applicable compliance standards.
- Section 504 of the Rehabilitation Act of 1973 and all applicable compliance standards.
- The Fair Housing Act and all applicable compliance standards.
- The Georgia Access Law (O.C.G.A. §30-3 et. seq.) and all applicable compliance standards.
- Georgia Fair Housing Law (O.C.G.A. §8-3-200 et. seq.) and all applicable compliance standards.
- The requirements of the DCA Qualified Allocation Plan (“QAP”) applicable to the Project and the DCA Accessibility Manual.
- Any other accessibility laws and regulations applicable to the project.

The following identifies the minimum DCA accessibility work scope and reporting standards:

### Plans and Specification Review Report

**Scope:** A pre-construction plan and specification review to determine that the proposed construction documents will meet all accessibility requirements.

**Reporting:** Include the following minimum standards in the report:

- Identify all applicable federal, state, and agency accessibility laws and requirements.
- Include the documents reviewed.
- The review comments from the Consultant, all documents related to resolution of identified accessibility issues.
- Certification from the Consultant that the plan/spec review comments have been incorporated in the construction documents.

### Framing Inspection (and additional needed interim inspections) Report

**Scope:** An inspection of the construction site after framing is completed to determine that the property is following the approved plans and specifications as to accessibility.

**Reporting:** Include the following minimum standards in the report:

- Identify all applicable federal, state, and agency accessibility laws and requirements.
- Description of the general progress of construction activities.
- Description of the level of compliance with accessibility achieved to date.
- Details on all areas of inconsistencies, including areas where the project is out of compliance with federal and state laws and regulations.
- Recommendations that would bring the project in compliance with accessibility regulations.
- Photographs representative of situations that must be addressed.

Final inspection Report

**Scope:** A final inspection of the property after completion of construction to determine that the property has been constructed in accordance with all accessibility requirements. This will include inspection of:

- All units designated equipped for the mobility impaired (5% of the project unit count).
- All units designated equipped for the audio/visual impaired (2% of the project unit count).
- Where applicable, a random sample of 5% of the units required to comply with the Federal Fair Housing Amendments Act.
- Overall review of the site for accessibility.

**Reporting:** Include the following minimum standards in the report:

- Identify all applicable federal, state, and agency accessibility laws and requirements.
- Information outlined in the Appendix I DCA "Final Accessibility Inspection Checklist".
- Details on all areas of inconsistencies, including areas where the project is out of compliance with federal and state laws and regulations.
- Recommendations that would bring the project in compliance with DCA, state, federal and industry standards.
- Photographs representative of situations that must be addressed.

Certificate of Accessibility Compliance

**Scope:** Following the final report after the general contractor and/or developer has had a reasonable opportunity to correct deficiencies, the Qualified Consultant will confirm that the corrections were executed properly.

**Reporting:** DCA "Consultant Accessibility Certification".

*NOTE: It is incumbent upon the Qualified Consultant to arrange enough visits with his client, the LIHTC Developer, to observe all areas of accessibility and to verify completion of recommended corrections.*

**Certification Statement:** Consultant agrees to comply with all requirements as stated above.

Company Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Consultant Name: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Note: Executed copy to be included with each report.*

# **Appendix “H”**

## **Consultant Accessibility Certification**

## 2023 DCA CONSULTANT ACCESSIBILITY CERTIFICATION

*(to be completed by Accessibility Consultant)*

DCA requires that all projects which receive funding under the 2023 Qualified Allocation Plan (QAP) be designed and constructed in a manner so that the "units, common areas, facilities and services" are readily accessible to and usable by disabled persons. All projects that receive allocations of funding under the Plan must comply with DCA QAP accessibility requirements and all applicable Federal and State accessibility laws including but not limited to the laws set forth in the 2023 Accessibility Manual.

- The Fair Housing Amendments Act of 1988 (FHA)
- Americans with Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Georgia Fair Housing Law
- Georgia Access Law

In order to meet the requirements of federal and state accessibility policy, the undersigned being first duly sworn on oath do certify to the Georgia Department of Community Affairs (DCA) that the below referenced project was constructed in compliance with all federal and state housing accessibility requirements applicable to the project as agreed to under the "Owner's Statement of Accessibility Compliance". The undersigned verifies the documentation and completion of all outstanding accessibility discrepancies.

\_\_\_\_\_  
Company Name Phone

\_\_\_\_\_  
Authorized Consultant -- Printed Name and Title Email

\_\_\_\_\_  
Authorized Consultant -- Signature Date Signed Date

Project Address: \_\_\_\_\_

\_\_\_\_\_

Project Name: \_\_\_\_\_

Project Number: \_\_\_\_\_

Applicable QAP: \_\_\_\_\_

## Appendix “I”

### Final Accessibility Inspection Checklist

The Information outlined in the DCA “Final Accessibility Inspection Checklist” form is required to be Included as part of the minimum DCA reporting standards as identified in Appendix G DCA “Certification of Minimum Scope and Reporting Standards”.

***NOTE: See separate Excel file for this referenced appendix.***

# **Appendix “J”**

## **Owner Accessibility Certification**



## 2023 OWNER ACCESSIBILITY CERTIFICATION

*(to be completed by Owner and returned before final draw is issued)*

In order to meet the requirements of federal and state accessibility policy, the undersigned being first duly sworn on oath do certify to the Georgia Department of Community Affairs (DCA) that the above referenced project was constructed in compliance with all federal and state housing accessibility requirements applicable to the project as agreed to under the "Owner's Statement of Accessibility" Compliance. The undersigned further understands that any deviations from federal and state accessibility requirements are the responsibility of the Owner and, as such, Owner is responsible for such deviations and DCA cannot waive these requirements. I also understand that noncompliance may require me as Owner to make modifications to the project and/or result in repayment of funds to DCA to correct any errors or deficiencies in the project.

\_\_\_\_\_  
Ownership Entity Name

\_\_\_\_\_  
Authorized Owner or Representative—Printed Name and Title

\_\_\_\_\_  
Authorized Owner-- Signature

\_\_\_\_\_  
Date Signed

Project Name and Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Project Number: \_\_\_\_\_

Applicable QAP: \_\_\_\_\_



## **Appendix “K”**

# **Accessibility Agreement**

- Statements of Accessibility Compliance
- Owner
- Architect
- Contractor



## 2023 ACCESSIBILITY AGREEMENT - OWNERS, ARCHITECTS AND GENERAL CONTRACTORS

### Statements of Accessibility Compliance

Newly constructed and rehabilitated multifamily housing developments funded all, or in part, by the Georgia Department of Community Affairs (“DCA”) are subject to statutory and regulatory requirements regarding accessibility. It is the Owner’s responsibility to ensure compliance with all federal, state and local laws. All projects funded all, or in part, by DCA must meet the requirements of all federal, state and local accessibility laws, including, but not limited to, the following laws and regulations.

1. Title II and III of the Americans with Disabilities Act (ADA) and all applicable compliance standards— applies to all actions of State, and municipal governments as well as all “public entities” (Title II) and public accommodations (Title III).
  - Title III prohibits disability based discrimination and requires privately owned “places of public accommodation” be designed, constructed and altered in compliance with certain accessibility standards.
  - Resource: ADAAG. See <http://www.access-board.gov/adaag/html/adaag.htm> and Georgia Rules and Regulations (Georgia Accessibility Code for Buildings and Facilities 120-3-20).
  - In an apartment complex, typically only affects the leasing office and any areas of the project that is rented to the public (ex. conference rooms)
2. Section 504 of the Rehabilitation Act of 1973 (Section 504) and all applicable compliance standard. Section 504 applies to all entities who receive federal funds (examples: HOME, TCAP).
  - A minimum of 5% of the total units in the project must be accessible to individuals with mobility impairments. In addition to the 5% of units made accessible to individuals with mobility impairments, a minimum of 2% of the total units in the project must be accessible to individuals with sensory impairments (hearing or vision)
  - Resource: Uniform Federal Accessibility Standard (UFAS). See <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/background/ufas?highlight=WyJ1ZmFzII0=>  
Affects a smaller number of units than Fair Housing with a higher level of accessibility
3. The Fair Housing Amendments Act of 1988 (Fair Housing) and all applicable compliance standards applies to all “covered units” of multifamily development regardless of funding

source. Covered units include those units in buildings containing 4 or more residential units and constructed on or after March 13, 1991. All ground floor units are "covered and, in buildings that contain elevators, all units are "covered".

- All covered units must include:
    1. Accessible building entrance on an accessible route
    2. Accessible common and public use areas
    3. Usable doors
    4. Accessible route into and through the covered unit
    5. Accessible environmental controls
    6. Reinforced bathroom walls for grab bars
    7. Usable kitchen and bathrooms
  - Resource: Fair Housing Design Manual. See <https://www.huduser.gov/portal/publications/destech/fairhousing.html>
  - Affects a larger number of units than Section 504 but with a lesser level of accessibility
4. The Georgia Access Law (O.C.G.A. §30-3 et. seq.) and all applicable compliance standards applies to public and multifamily buildings. It is the intent of this law to eliminate, insofar as possible, unnecessary physical barriers encountered by persons with disabilities or elderly persons whose ability to participate in the social and economic life is restricted when such persons cannot readily use government buildings, public buildings, and facilities used by the public. All covered multifamily dwellings constructed for first occupancy after March 31, 1993, with a building entrance on an accessible route shall be designed and constructed to conform to the appropriate standards and requirements of Code Sections §30-3-3 and §30-3-5 or in such a manner that:
- The public and common use areas are readily accessible to and usable by persons with disabilities
  - All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and
  - All premises within covered multifamily dwelling units contain the following features of adaptable design:
    1. An accessible route into and through the covered dwelling unit
    2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations
    3. Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where such facilities are provided; and
    4. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
  - Federal law controls if there is a conflict between this provision and federal law. Where no conflict, provisions which affords persons with disabilities greater access than is required by federal law are required.
  - Resource: Official Code of Georgia Annotated: <http://www.lexisnexis.com/hottopics/gacode/default.asp>
5. Georgia Single Family Accessibility (O.C.G.A. §8-3-172) and all applicable compliance standards applies to single-family affordable housing projects awarded state or federal

funds. Single-family homes under this requirement must have the following accessible features:

1. at least one entrance door, whether it is located at the front, side, or back of the building, has to be on an accessible route served by a ramp or no-step entrance and has to have at least a standard 36-inch door.
  2. on the first floor of the building, each interior door must be at least a standard 32-inch door, unless the door provides access only to a closet of less than 15 square feet in area
  3. each hallway has a width of at least 36 inches and is level, with ramped or beveled changes at each door threshold
  4. each bathroom wall is reinforced for potential installation of grab bar
  5. each electrical panel or breaker box, light switch, or thermostat is not higher than 48 inches above the floor
  6. each electrical plug or other receptacle is at least 15 inches above the floor
  7. the main breaker box is located inside the building on the first floor
  8. Resource: Official Code of Georgia Annotated  
<http://www.lexisnexis.com/hottopics/gacode/default.asp>
6. The requirements of the DCA Qualified Allocation Plan (“QAP”) and Accessibility Manual applicable to the Project. As a policy, DCA has adopted the 5% and 2% requirements from Section 504 (see Section #2 above).
1. Resource: Georgia Department of Community Affairs Accessibility Manual: <http://www.dca.ga.gov/housing/housingdevelopment/programs/OAHplansGuidesManuals.asp>. A list of resource guides is included in each Accessibility Manual. Please refer to this list.
7. Any other accessibility laws and regulations applicable to the project. Local code requirements should be checked for additional requirements.

***The Owner, Architect and General Contractor must sign the attached “Statements of Accessibility Compliance” and return to the DCA Construction Manager within seven (7) days of the Pre-Construction Conference.***

***The Owner must sign the attached “Accessibility Certification” and return to the DCA Construction Manager at Final Draw.***

***No draws will be authorized until all three (3) Statements of Accessibility Compliance are returned and Final Draw will not be authorized until the Accessibility Certification is returned.***

## 2023 OWNER'S STATEMENT OF ACCESSIBILITY COMPLIANCE

*(to be completed and returned within seven (7) days of Pre-Construction Conference)*

In order to meet the requirements of this policy, I agree that I am thoroughly familiar with all the facts and circumstances concerning the physical development of this project and I understand the above DCA policy and agree to take such actions to ensure compliance with all housing accessibility requirements applicable to said project. I also understand that I must ensure that my Architect and General Contractor understand these same requirements and will design (Architect) and construct (General Contractor) the project according to state and federal requirements. I understand that noncompliance may require me as Owner to make modifications to the project and/or result in repayment of funds to DCA.

---

Ownership Entity Name

---

Authorized Owner or Representative—Printed Name and Title

---

Authorized Owner-- Signature

---

Date of Pre-Construction Conference

---

Date Signed

Project Name and Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Project Number: \_\_\_\_\_

Applicable QAP: \_\_\_\_\_

# 2023 ARCHITECT'S STATEMENT OF ACCESSIBILITY COMPLIANCE

*(to be completed and returned within seven (7) days of Pre-Construction Conference)*

I have prepared, or caused to be prepared, under my direct supervision, the attached plans and specifications. I understand that I am contractually obligated to know the federal, state and local accessibility laws applicable to the below listed project and have applied them accordingly. To the best of my professional knowledge and belief, I agree that the below listed project as designed is in compliance with all applicable federal, state & local housing and accessibility laws and regulations.

\_\_\_\_\_  
Architect-- Printed Name

\_\_\_\_\_  
Architect-- Signature

\_\_\_\_\_  
Date of Pre-Construction Conference

\_\_\_\_\_  
Date Signed

Project Name and Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project Number: \_\_\_\_\_

Applicable QAP: \_\_\_\_\_

# 2023 CONTRACTOR'S STATEMENT OF ACCESSIBILITY COMPLIANCE

*(to be completed and returned within seven (7) days of Pre-Construction Conference)*

I, or those under my direct supervision, are responsible for the construction of the project listed below according to the plans and specifications prepared by the Architect of Record. I understand that I am obligated to know the federal, state and local accessibility laws applicable to the below listed project and will build the project accordingly.

\_\_\_\_\_  
General Contractor-- Printed Name

\_\_\_\_\_  
General Contractor-- Signature

\_\_\_\_\_  
Date of Pre-Construction Conference

\_\_\_\_\_  
Date Signed

Project Name and Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Project Number: \_\_\_\_\_

\_\_\_\_\_

Applicable QAP: \_\_\_\_\_

\_\_\_\_\_